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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

ARIEL ABITTAN,

PLAINTIFF,

v.

LILY CHAO (A/K/A TIFFANY CHEN, A/K/A
YUTING CHEN), DAMIEN DING (A/K/A
DAMIEN LEUNG, A/K/A TAO DING),
TEMUJIN LABS INC. (A DELAWARE
CORPORATION), AND TEMUJIN LABS
INC. (A CAYMAN CORPORATION),

DEFENDANTS,

and

EIAN LABS INC.,

NOMINAL DEFENDANT.

Case No. 5:20-CV-09340-NC

**DECLARATION OF
CONSTANTINE P. ECONOMIDES
IN SUPPORT OF MOTION TO
FILE AMENDED COMPLAINT**

1 I, Constantine P. Economides, declare as follows:

2 1. I am an attorney licensed to practice law in the States of New York and Florida and
3 admitted to practice before this Court *pro hac vice*. I am a partner with the firm Roche Freedman
4 LLP, and counsel for Plaintiff Ariel Abittan (“Plaintiff”). I make this declaration based upon my
5 knowledge of the facts stated herein, and if called to testify, I could and would testify competently
6 thereto. I submit this declaration in support of Plaintiff’s motion for leave to file an amended
7 complaint.

8 2. On December 24, 2020, Abittan filed this action against Defendants Chao, Ding,
9 Temujin Labs Inc. (Cayman) (“Temujin Cayman”; collectively with Chao and Ding,
10 “Defendants”), and Temujin Labs Inc. (Delaware) (“Temujin DE”), asserting, *inter alia*, thirteen
11 (13) claims arising out of Defendants’ multi-year fraudulent scheme to steal Findora and millions
12 of dollars from Abittan. [ECF No. 1].

13 3. On April 9, 2021, Temujin DE filed a motion to dismiss, arguing, *inter alia*, that
14 Plaintiff’s claims against it should have been brought as compulsory counterclaims in a pending
15 state action.¹ [ECF No. 36].

16 4. On July 19, 2021, this Court granted Temujin DE’s motion. [ECF No. 78].

17 5. Following Temujin DE’s dismissal, Plaintiff—represented by new counsel—
18 conducted an extensive investigation into specific issues highlighted by Defendant’s briefing, such
19 as proof of stock ownership, the interrelatedness of various entities, the identification of parties and
20 agents, and the substance of material documents that Plaintiff did not possess until Temujin DE
21 filed them in conjunction with its motion to dismiss. *See* [ECF No. 37] at Exs. C, D.

22 6. As a result of Plaintiff’s investigation, which occurred between July and November
23 of 2021, Plaintiff has uncovered numerous key documents; connected over a dozen shell companies
24 to Defendants’ elaborate scheme to defraud; discovered several new participants in Defendants’
25 criminal enterprise; and developed a more fully informed understanding of how Defendants stole

26
27 ¹ *See Temujin Labs Inc. v. Ariel Abittan et al.*, No. 20-cv-372622, Santa Clara Superior Court (the
28 “state action”).

Findora and millions of dollars from Plaintiff.

7. On November 3, 2021, Plaintiff filed a cross-complaint against, *inter alia*, Temujin DE, Ding, Chao, and Temujin Cayman in the state action based on these new facts and Plaintiff's evolved understanding of Defendants' fraud. *See* [ECF 122-1].

8. On November 8, 2021, Temujin Cayman filed a motion to dismiss Plaintiff's complaint. [ECF No. 109]. On November 22, 2021, Plaintiff opposed Temujin Cayman's motion to dismiss on numerous grounds, noting:

[I]n the event Defendant's Motion is not denied in full, Plaintiff respectfully requests leave to amend the Complaint to correct any defects and to conform the pleading to newly discovered facts of fraud. But Plaintiff respectfully requests the opportunity to amend after this Court decides Plaintiff's pending motion for alternative service on Defendants Lily Chao (a/k/a Tiffany Chen, a/k/a Yuting Chen) ("Chao") and Damien Ding (a/k/a Damien Leung, a/k/a Tao Ding) ("Ding"). *See* [ECF No. 83]. Otherwise, Plaintiff would suffer prejudice in repeating months of costly service efforts thwarted by Chao's and Ding's evasion. Once Chao and Ding are served in the manner ordered by this Court, Plaintiff could serve an amended complaint, as well as any motions or other filings, pursuant to Rule 5 (i.e., via CM/ECF without any possibility for Chao or Ding to evade).

[ECF No. 112] at 1.

9. Two days later, on November 24, 2021, this Court granted Plaintiff's motion for alternative service (ECF No. 113), and service on Chao and Ding was completed (ECF Nos. 118, 119).

10. On December 1, 2021, Plaintiff and Defendants filed a joint case management statement, in which Plaintiff indicated that he anticipates amending the Complaint "to conform with newly discovered facts." [ECF No. 115] at 7. Plaintiff proposed that the Court set March 9, 2022 as his deadline to file an amended complaint. *Id.*

11. On December 2, 2021, this Court continued the Initial Case Management Conference set for December 8, 2021 to February 9, 2022. [ECF No. 116].

12. On January 12, 2022, Plaintiff filed a motion to stay these proceedings pending the outcome of parallel state proceedings, in which Plaintiff indicated that "[i]n the event that this motion is denied, Abittan intends to seek leave to amend his complaint to conform it to the new facts alleged in the [state action] cross-complaint." [ECF No. 121] at 4 fn. 3; *see* [ECF 122-1].

1 13. On February 2, 2022, Plaintiff and Defendants filed an updated joint case
2 management statement, in which Plaintiff again indicated that he anticipates amending the
3 Complaint “to conform with newly discovered facts.” [ECF No. 115] at 7. Plaintiff proposed that
4 the Court set March 9, 2022 as his deadline to file his amended complaint. *Id.*

5 14. On February 7, 2022, this Court denied Plaintiff’s motion to stay (ECF No. 126) and
6 continued the Initial Case Management Conference set for February 9, 2022 to March 2, 2022 (ECF
7 No. 127).

8 I declare under penalty of perjury that the foregoing is true and correct.
9 Executed this 23rd day of February, 2022 at Miami, Florida.

10
11 Dated: February 23, 2022

ROCHE FREEDMAN LLP

/s/ Constantine P. Economides

Constantine P. Economides

Attorney for Plaintiff Ariel Abittan